

ESTTA Tracking number: **ESTTA443848**

Filing date: **11/30/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	R2Sonic, LLC
Granted to Date of previous extension	11/30/2011
Address	1503-A Cook Place Santa Barbara, CA 93117 UNITED STATES
Attorney information	Jane Shay Wald, Esq. Irell & Manella LLP 1800 Avenue of the Stars, Suite 900 Los Angeles, CA 90067 UNITED STATES jwald@irell.com, mcohen@irell.com, trademarks@irell.com, tmfiler@irell.com

### Applicant Information

Application No	79088219	Publication date	08/02/2011
Opposition Filing Date	11/30/2011	Opposition Period Ends	11/30/2011
International Registration No.	1053534	International Registration Date	09/08/2010
Applicant	Reson A/S Fabriksvangen 13 DK-3550 Slangerup DENMARK		

### Goods/Services Affected by Opposition

<p>Class 009.</p> <p>All goods and services in the class are opposed, namely: Scientific, nautical, surveying, photographic, cinematographic, optical apparatus and instruments, namely, sonar systems, echo-sounders, acoustic transducers and hydrophones; apparatus for weighing, measuring, signaling, checking and supervision, namely, sonar systems, echo-sounders, acoustic transducers and hydrophones; apparatus for recording, transmission and reproduction of sound or images; scanners; computer software for acoustical data acquisition and processing; computer hardware</p>
<p>Class 042.</p> <p>All goods and services in the class are opposed, namely: Scientific and technological services, namely, installation, repair, maintenance and customer support for sonar systems, echo-sounders, acoustic transducers and hydrophones; scientific research relating to the aforementioned scientific and technological services; technological research, namely, acoustic monitoring and application development relating to acoustic sensors and sonar systems relating to the aforementioned scientific and technological services; scientific design, namely, research in acoustic sensor and systems design relating to the aforementioned scientific and technological services; technological design,</p>

namely, customer-specific customized system and application solutions relating to the aforementioned scientific and technological services; industrial analysis and research services in the field of acoustic marine research and surveys; design and development of computer hardware and software; computer hardware and software consulting services
---

## Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
--------------------------------	-------------------------------

Attachments	sound.pdf ( 5 pages )(18285 bytes )
-------------	-------------------------------------

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jane Shay Wald/
Name	Jane Shay Wald, Esq.
Date	11/30/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application of:

In the Application of:     Reson A/S  
Serial No.:                 79/088,219  
Filed:                     9/9/10  
Mark:                     Design of a Sound Wave  
Published on:             8/2/11

**NOTICE OF OPPOSITION**

Opposer, R2Sonic, LLC, a limited liability company organized and existing under the laws of the State of California with principal offices at 1503-A Cook Place, Santa Barbara, CA 93117 (hereinafter referred to as “**Opposer**”), on the facts now known believes it will be damaged by the registration of the proposed mark shown in the application 79/088,219 filed by Reson A/S (**Applicant**) and published for opposition August 2, 2011, with extensions granted, and hereby opposes said application. As grounds for the Opposition, it is alleged that:

**FACTS COMMON TO ALL COUNTS**

1.       Opposer is in the business of, inter alia, making and selling products for the underwater acoustics market. Opposer's products are multibeam echosounders, which are commonly referred to as "sonars." Sonars use acoustic waves to determine underwater distances and map underwater features. In view of Opposer's business, it has a need to be free to utilize wave and sound wave designs in a descriptive and/or ornamental fashion.

2. Applicant, in a lawsuit against Opposer and others (RESON A/S and RESON Inc. v. R2Sonic, LLC et al., Superior Court of the State of California for the county of Santa Barbara, Anacapa Division, Case No. 1342087), has identified itself as a manufacturer of underwater acoustic systems. Applicant seeks to register a sound wave design for goods and services as claimed:

**International Class: 009**

Scientific, nautical, surveying, photographic, cinematographic, optical apparatus and instruments, namely, sonar systems, echo-sounders, acoustic transducers and hydrophones; apparatus for weighing, measuring, signaling, checking and supervision, namely, sonar systems, echo-sounders, acoustic transducers and hydrophones; apparatus for recording, transmission and reproduction of sound or images; scanners; computer software for acoustical data acquisition and processing; computer hardware

**International Class: 042**

Scientific and technological services, namely, installation, repair, maintenance and customer support for sonar systems, echo-sounders, acoustic transducers and hydrophones; scientific research relating to the aforementioned scientific and technological services; technological research, namely, acoustic monitoring and application development relating to acoustic sensors and sonar systems relating to the aforementioned scientific and technological services; scientific design,

namely, research in acoustic sensor and systems design relating to the aforementioned scientific and technological services; technological design, namely, customer-specific customized system and application solutions relating to the aforementioned scientific and technological services; industrial analysis and research services in the field of acoustic marine research and surveys; design and development of computer hardware and software; computer hardware and software consulting services.

3. By its application herein opposed Applicant seeks exclusivity in a descriptive, ornamental sound wave design to the detriment of Opposer and the public.

### **COUNT ONE**

#### **The Design of Ser. No. 79/088,219 Does Not Serve as a Trademark**

4. Opposer repeats and realleges the foregoing Paragraphs as if fully set forth herein.

5. In response to an Office Action of June 22, 2010, Applicant informed the Examining Attorney, that the proposed mark is described thus:

"The mark consists of three semi-circles that are stacked vertically and appear like sound waves, each progressively getting smaller. There are two curved lines connected to the largest semi-circle at the bottom."

6. The proposed mark as presented is merely descriptive and ornamental as a commonplace design of a sound wave and does not serve as a trademark for the goods alleged as required by, *inter alia*, Trademark Act Secs. 1, 2 and 45, and is unregistrable.

7. The mark lacks distinctiveness pursuant to Trademark Act Sec. 2(e)(1) and is unregistrable.

8. Competitors, including Opposer, have a competitive need and a right to utilize wave designs, including sound wave designs, in connection with their goods and services.

WHEREFORE, if the mark is allowed to register, Applicant will have the color of rights in an invalid "mark," which it may assert against competitors, including Opposer, and which will have a chilling effect on Opposer's design freedom, all to the detriment of Opposer and the public. Opposer believes that it would be damaged by the registration of Applicant's mark and prays that it be rejected, that no registration be issued thereon to Applicant, and this Opposition be sustained in favor of Opposer.

Respectfully submitted,

IRELL & MANELLA LLP

Dated: November 30, 2011

By: /Jane Shay Wald/  
Jane Shay Wald  
Counsel for Opposer  
1800 Avenue of the Stars, Suite 900  
Los Angeles, California 90067  
Tel: (310) 277-1010

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1800 Avenue of the Stars, Suite 900, Los Angeles, California 90067-4276.

On November 30, 2011, I served the foregoing document described as: **NOTICE OF OPPOSITION** on each interested party, as follows:

Nancy DiConza, Esq.  
Fross Zelnick Lehrman & Zissu, P.C.  
866 United Nations Plaza  
New York, NY 10017

☒ (BY MAIL) I placed a true copy of the foregoing document in a sealed envelope addressed to each interested party, as set forth above. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing at Irell & Manella LLP, Los Angeles, California. I am readily familiar with Irell & Manella LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

Executed on November 30, 2011, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

\_\_\_\_\_  
Rosario Grazziani  
(Type or print name)

\_\_\_\_\_  
(Signature)